

REMARKS

This amendment is in response to the Office Action dated January 21, 2009. Claim 1 is amended by incorporation of claim 5, which is now canceled. Claims 1, 4 and 8 – 22 are pending herein upon entry of this amendment.

The Examiner is requested to enter and consider this response even though presented after final rejection

Applicants acknowledge the provisional obviousness-type double patenting rejections of claims 1 – 4 and 6 – 22 over copending and commonly owned applications 10/578211 and 10/596268. Applicants respectfully disagree with the Examiner's assessment. Applicants respectfully submit that there is sufficient difference between the respective applications to merit withdrawal of this rejection. Applicants respectfully traverse the Examiner's contention, but will consider the filing of a terminal disclaimer once allowable subject matter has been identified by the Examiner.

The Examiner rejects claims 1, 4, 5, 8-13, 21 and 22 (now 1, 4, 8-13, 21 and 22) under § 103 as being unpatentable over the combined teachings of Ashford in view of Scher et al. (US 5,562,914). Claims 14 – 20 are further rejected under § 103 in further view of Humble et al. Applicants respectfully traverse the rejections.

At the outset, Applicants note that, as amended, claim 1 now recites that the amine adjuvant is selected from triethylenediamine (TEDA) or a salt thereof and tetramethylethylenediamine (TMEDA) or a salt thereof. In addition, the amine adjuvant is specified as having no surfactant properties. Accordingly, Applicants submit that the TEDA and TMEDA amine adjuvants are not obvious over the oxalic acid amine salts of Ashford.

The Examiner contends that Scher et al (Scher) discloses triethylene diamine as a catalyst in coating membranes for agrochemical use, including for glyphosate. Scher describes porous particles into which a polyurethane polymer is made *in-situ* by reaction of a polyol with a polyisocyanate. It is the reaction between the polyol and the polyisocyanate that can be catalysed by an amine, including triethylene diamine - this is conventional polyurethane technology. Contrary to the Examiner's suggestion, Scher provides no motivation to include the amine therein (that is

used by Scher as a catalyst for the polyisocyanate/polyol reaction) as an adjuvant in a paraquat/diquat agrochemical composition. These are simply completely different uses for the amines.

Humble does not remedy the deficiencies of the Ashford – Scher combination with respect to the subject matter of claims 14 – 20.

In view of the above comments, it is submitted that the present claims are not obvious in view of the prior art cited. Reconsideration and withdrawal of the § 103 rejection of the claims are earnestly requested.

While not acquiescing in the propriety of the rejection of claims 1 – 4, 6 – 13, 21 and 22 under § 112, Applicants note that claim 5 has been incorporated into claim 1 so that the basis given by the Examiner for the rejection no longer applies. Accordingly, the amendment renders the rejection moot. The Examiner has not provided adequate basis for questioning the statements given in the specification, particularly with respect to the subject matter of original claim 5. Applicants respectfully request reconsideration and withdrawal of this ground of rejection.

In view of the above amendments and remarks, Applicants submit that present claims are allowable over the cited art. Withdrawal of all rejections is respectfully requested, along with issuance of a Notice of Allowance. Applicants invite the Examiner to telephone the undersigned attorney of record if the Examiner feels that the call will be beneficial to advance prosecution of the application.

Respectfully submitted,

USPTO Customer No. 26748
Syngenta Crop Protection, Inc.
Patent and Trademark Dept.
410 Swing Road
Greensboro, NC 27409
(336) 632-7895

William A. Teoli, Jr./
William A. Teoli, Jr.
Attorney for Applicants
Reg. No. 33,104

Date: May 21, 2009